

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,

v.

BOBBY PERKINS, JR.,

Defendant.

Case No. 1:18CR214
Honorable T.S. Ellis, III
Sentencing: August 31, 2018

Defense on Sentencing position

DEFENDANT'S POSITION ON SENTENCING

Pursuant to Rule 32 of the Federal Rules of Criminal Procedure, Section 6A1.3 of the United States Sentencing Guidelines, and this Court's Policy Regarding Procedures to be followed in Guideline Sentencing, the defendant, Bobby Perkins, Jr., through counsel, states that he has received and reviewed the Presentence Investigation Report ("PSR") prepared in this case and concurs with the findings of the Probation Office that Mr. Perkins' advisory sentencing guidelines range is Level 29 (I) = 87 – 108 months on Count 1 (Drug Conspiracy) and Count 3 (Dealing in Firearms without a License) and a mandatory 60 month consecutive sentence on Count 2 (Use/Carry a Firearm During a Drug Trafficking Crime). In assessing the appropriate punishment, Mr. Perkins asks this Court to consider the 60 month mandatory consecutive sentence required to be imposed on count 2 (Use/Carry a Firearm During Drug Trafficking Crime) in determining the appropriate sentence to be imposed on counts 1 and 3 and impose a total sentence of imprisonment of 120 months. Count 1 has a statutory mandatory minimum sentence of 60 months and Count 3 has a statutory maximum sentence 60 months. (PSR para. 113).

A.

Bobby Perkins, Jr. is an intelligent, hardworking, 29-year-old man, a former United States Marine who is a skilled electrician. (PSR para. 89, 92, 98, 104-109). He is married and the loving husband and father to his wife and three (3) young daughters, ages 2, 2, and 5 (PSR para. 94, 95, 97, 98). Except for his time in the United States Marine Corps, Mr. Perkins has lived in and around the Washington, D.C. area his entire life. (PSR para. 91). He was raised in a middle-class environment by parents, each of whom, played an active part in his life and upbringing. (PSR para. 91).

Although Mr. Perkins was expelled from high school in the tenth grade, he subsequently obtained his General Equivalency Diploma (GED) by the age of 16. (PSR para. 103), Exhibit 1. In addition, while serving in the United States Marine Corps, Mr. Perkins attended the Department of Defense Fire Academy (PSR para. 104) and obtained certifications as 1) Fire Fighter I and II, Exhibit 2 2) Airport Fire Fighter, Exhibit 3 and 3) Hazmat Awareness and Operations, Exhibit 4. He has a criminal history score of zero and criminal category of I. (PSR para. 79 - 80).

Considering Mr. Perkins' education, skills, background, family and community ties, his military service and criminal history score and category, Mr. Perkins respectfully requests a variance sentence of 60 months on count 1 (Drug Conspiracy) and a sentence of 60 months on count 3 (Dealing in Firearms without a License), each to run concurrent to each other. Count 2 (Use/Carry a Firearm During a Drug Trafficking Crime) requires a mandatory 60 month consecutive sentence. This results in a total sentence of imprisonment of 120 months.

B.

SENTENCING ARGUMENT

I. Application of Sentencing Factors Under 18 U.S.C. §3553(a)

The court is well aware that the Supreme Court's opinions in Kimbrough v. United States, 522 U.S. 85 (2007) and Gall vs. United States, 552 U.S. 38 (2007), have dramatically altered the law on federal sentencing. While courts must continue to consider the sentencing guidelines, Congress has required federal courts to impose the least amount of imprisonment necessary to accomplish the purposes of sentencing as set forth in paragraph 2 of §3553(a) of Title 18. Those factors include (a) the nature and circumstances of the offense and the history and characteristics of the defendant, (b) the kinds of sentences available, (c) the guideline range, (d) the need to avoid unwarranted sentencing disparities, (e) the need for restitution, and (f) the need for the sentence to reflect the following: the seriousness of the offense, promotion of respect for the law and just punishment of the offense; provision of adequate deterrence; protection of the public from future crimes and providing the defendant with needed educational and vocational training, medical care, or other correctional treatment. *See* 18 U.S.C. §3553(a).

The overriding mandate of §3553(a) requires courts to impose a sentence “sufficient, but not greater than necessary” to comply with the purposes of sentencing. While the guidelines are to be considered, they are not *presumed* reasonable. Nelson v. United States, 555 U.S. 350 (2009) (per curium) (emphasis in original).

A. Mr. Perkins's History And Characteristics Militate In Favor of A Below-Guideline Sentence On Count 1.

Mr. Perkins's history and characteristics and the nature and circumstances of his offenses have been described in detail in the PSR. Attached as Exhibits 5, 6, 7 and 8 are letters from Mr. Perkins' wife, mother, aunt and family friend, all of whom uniformly describe Mr. Perkins as a former United States Marine who served his country and who is intelligent, kind, hardworking, a loving husband and father and a caring person who was raised in a Christian home environment and who goes out of his way to help family, friends and has mentored at-risk youth in the inner city of Washington, D.C.

These letters attest to Mr. Perkins' good character traits and past conduct and his potential to continue to make a positive contribution to his family, neighborhood and society. They help to illustrate that his participation in the instant offenses is the result of poor decision making and not indicative of a criminal orientation and support the request made herein.¹

¹ The government attempts to establish that Mr. Perkins has a violent nature by making several assertions that: 1) Mr. Perkins provided the firearm used by Chancellor Tolliver to commit the homicide that he (Tolliver) was convicted of; was present at the shooting; instructed Tolliver to shoot the victim and aided Tolliver's escape from the scene. Gov't Memorandum at 2 (n.1); 2) That Mr. Perkins' motto was "always be ready to shoot" *Id.* at 7 and 3) That Mr. Perkins was involved in a January 17, 2016 shooting in Stafford County, Virginia. *Id.* at 7 (n.5).

The assertions embodied in No. 1 – counsel understands – are based upon the hearsay statements of a drug user who was paid \$200 for information; a drug user/drug distributor/convicted felon given informal immunity and the uncorroborated statements of alleged witnesses. The assertion in No. 2 – counsel understands – is based upon the “paraphrasing” of an alleged statement made by a convicted felon and drug user. The assertion embodied in No. 3 concerns a pending criminal prosecution, the facts of which, have not been established. Mr. Perkins pleaded not guilty and unless he is convicted is presumed innocent.

The reliability of these bare assertions made by the government have not been reliably established to support the proper consideration by the court herein.

B. The 60 months mandatory consecutive sentence required to be imposed on Count 2 Militates In Favor Of A Below- Guideline Sentence on Count 1.

Mr. Perkins' calculated guidelines range for his convictions on Counts 1 and 3 is Level 29 (I) = 87 – 108 months. His conviction on Count 1 (Drug Conspiracy) requires a mandatory minimum sentence of 60 months imprisonment. His conviction on Count 3 has a statutory maximum sentence of 60 months imprisonment. (PSR para. 113).

His conviction on Count 2 (Use/Carry a Firearm During A Drug Trafficking Crime) requires the imposition of a mandatory minimum sentence of 60 months, consecutive to all other counts. (PSR para. 113).

In determining the appropriate sentence to be imposed for his convictions on Counts 1 and 3, which are predicate offenses, the court is to consider the sentencing factors in 18 USC §3553(a). The court may also consider the fact of the mandatory minimum consecutive sentence required to be imposed on Count 2. United States v. Dean, 137 S.Ct. 1170 (2017).

Mr. Perkins requests that the court impose a variance sentence on Count 1 of 60 months, which is the mandatory minimum sentence that may be imposed for his conviction on that count. This, along with the mandatory minimum consecutive 60 months sentence required to be imposed on Count 2, will result in a total sentence of imprisonment of 120 months, which sentence would be sufficient, but not greater than necessary to achieve the four (4) purposes of sentencing: promote respect for the law and just punishment for the offense; deterrence; protection of the public and rehabilitation.

Mr. Perkins' history and characteristics set out in the PSR, Part A, *supra* at 2 and in the attached Exhibits, illustrate that his participation in the instant offense was the result of poor decision making and not indicative of a criminal orientation and support the request made herein.

CONCLUSION

For the foregoing reasons, Mr. Perkins requests that the court impose a 60 months sentence on Count 1 and a 60 months sentence on Count 3, to run concurrent to the sentence imposed on Count 1, and a 60 months mandatory minimum sentence on Count 2 to run consecutive to the total term of imprisonment imposed on Counts 1 and 3. This would result in a total term of imprisonment on all counts of 120 months. Such a sentence is sufficient but not greater than necessary to achieve the goals of sentencing.

Respectfully submitted,

BOBBY PERKINS, JR.
By Counsel

/s/

C. Dean Latsios
Virginia Bar No. 17350
Attorney for Bobby Perkins, Jr.
3905 Railroad Avenue, Suite 104
Fairfax, Virginia 22030
Telephone: (703) 359-8190
Facsimile: (703) 535-3045
cdeanlatsios@msnflaw.com

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of August, 2018. I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Alexander E Blanchard, Esquire
Assistant United States Attorney
United States Attorney Office
2100 Jamieson Avenue
Alexandria, Virginia 22314
Telephone: (703) 299-3818
Facsimile: (703) 299-3980
alexander.blanchard@usdoj.gov

I hereby certify that I will mail the document by U.S. mail, first class, postage prepaid or email same to the following non-filing user:

Mr. William C. Byerley
United States Probation Officer
United States Probation Office
10500 Battleview Parkway, Suite 100
Manassas, Virginia 20109

/s/

C. Dean Latsios
Virginia Bar No. 17350
Attorney for Bobby Perkins, Jr.
3905 Railroad Avenue, Suite 104
Fairfax, Virginia 22030
Telephone: (703)359-0891
Facsimile: (703) 535-3045
cdeanlatsios@msnflaw.com

Pursuant to the Electronic Case Filing Policies and Procedures, a courtesy copy of the pleading will be delivered to Chambers within one business day of the electronic filing.

/s/

C. Dean Latsios
Virginia Bar No. 17350
Attorney for Bobby Perkins, Jr.
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Fairfax, Virginia 22030
Telephone: (703) 359-0891
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OFFICIAL GED® TRANSCRIPT

TESTING SERVICE

Issued by the GED Testing Service as of **08/14/2018**

Marti D. Kelle
 Martin Kelle
 Vice President, Assessment Services

CANDIDATE INFORMATION

LAST NAME: PERKINS JR **FIRST NAME:** BOBBY **MIDDLE:**
ADDRESS: **ADDRESS2:**
CITY: CLINTON **STATE:** MD **POSTAL CODE:**
ID NUMBER: MD000001040927 **DATE OF BIRTH:** 1988 **COUNTRY:** US
TESTING JURISDICTION: Maryland **PASS DATE:** 07/31/2005 **PHONE:**

Click on a test subject area or performance level for more detailed information

TEST RESULTS

	DATE	TEST FORM	SCORE*	STATUS	PERCENTILE RANK
Language Arts, Writing	07/31/2005	2	<u>450</u>	PASS	31
Mathematics	07/31/2005	2	<u>700</u>	PASS	98
Language Arts, Reading	07/31/2005	2	<u>500</u>	PASS	50
Science	07/31/2005	2	<u>510</u>	PASS	54
Social Studies	07/31/2005	2	<u>460</u>	PASS	34

Score Total	<u>2620</u>	Overall
Battery Average	<u>524</u>	PASS

* The scores on the report are the highest scores achieved by the candidate and not necessarily the most recent. If retail scores are lower than scores previously achieved, the retail scores are not reported.

To learn more about score scales and content descriptions please visit www.GEDtesting-service.com/transcriptinfo

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DEPARTMENT OF DEFENSE FIREFIGHTER CERTIFICATION SYSTEM

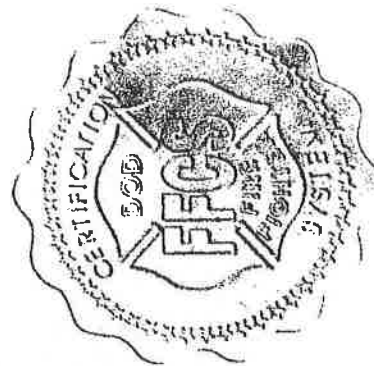
as accredited by the
International Fire Service Accreditation Congress
hereby confirms that

Bobby Perkins Jr

is certified as

Fire Fighter I and II

in accordance with the provisions of
the National Fire Protection Association's
Professional Qualification Standards



Donal D. Warner
Administrator

1 Feb 07

DEPARTMENT OF DEFENSE FIREFIGHTER CERTIFICATION SYSTEM

as accredited by the
International Fire Service Accreditation Congress
hereby confirms that


Bobby Perkins Jr

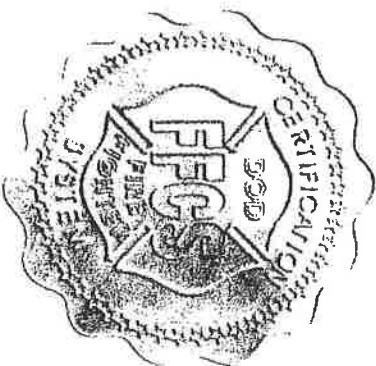
is certified as

Airport Fire Fighter

in accordance with the provisions of
the National Fire Protection Association's
Professional Qualification Standards




Administrator
1 Feb 07



DEPARTMENT OF DEFENSE FIREFIGHTER CERTIFICATION SYSTEM

as accredited by the
International Fire Service Accreditation Congress
hereby confirms that


Bobby Perkins Jr

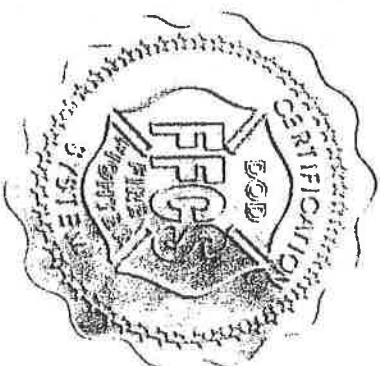
is certified as

HazMat Awareness and Operations

in accordance with the provisions of
the National Fire Protection Association's
Professional Qualification Standards



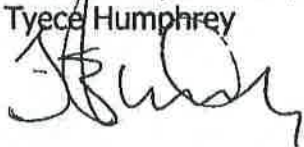

Administrator
1 Feb 07



Dear Judge T.S. Ellis III,

I, Tyece Humphrey, am the wife of Bobby Perkins, Jr. I am writing this letter to shine some light on the person he is. Bobby is hardworking, kind, and a loving husband and father. He is the father of our two daughters J.P. 5 and L.P. 2. Bobby has never harmed anyone and is always helpful to those around him. He's the go to when one needs guidance on anything. He's intelligent and encourages those around him to make wise choices. Bobby served in the United States Marine Corps for a couple of years and then worked as an electrician until he departed in March. Bobby is passionate about his work as an electrician and is excellent at his craft. Family and friends recruit him to do electrical work in their homes and often refer him to others. He does everything with good intentions and look forward to positive results. Bobby is aware that he must be responsible for his imperfections. He has helped me stay strong throughout this ordeal. My girls and I visit him weekly since he's been detained. The look on their faces when they see him is priceless. Our oldest daughter constantly asks when he will get from behind the "mirror". It melts our hearts but he knows he can only tell her one day they'll be together again. Bobby's wisdom and strength is admirable. He encourages me more than I can say and is still that voice of reason I often need. Although he's away it seems his presence is still around at times. Our girls ask about him daily and sometimes speak as if he's there. They'll say daddy taking us to Chucky Cheese on Saturday or daddy taking us to the park. We look forward to being able to spend our days together again.

Thanks for your time,
Tyece Humphrey



Rev. Dr. Mary E. Proctor

Fort Washington MD.

703.244.1466

August 10, 2018

To Whom It May Concern:

I am writing in reference to my second oldest child, Bobby Perkins Jr. Bobby was born 1988. He is my oldest son, though he is my second oldest child. He was always a very bright and quiet child who grew up to be a very hard working young man. Bobby has always excelled at whatever he put his hands to. As a young child, he would make his own flyers on his computer and go around the neighborhood and take odd small jobs such as: cutting grass, cleaning up yards and garages, removing leaves and shoveling snow. He was always about making his own money. His business name was "Bobby Perkins & Associates". His associate was his little brother Nathaniel. Bobby was able to buy his own car with money that I taught him to save up. This allowed him to appreciate having his own vehicle, because he worked hard to get it.

Bobby was also raised in a Christian home and he was very involved in the church and youth activities. He played sports and was very instrumental in outreach programs helping youth and senior citizens in the community.

Bobby would visit with his dad on the weekends; he would work with his dad's friend, Mr. Givens a well-known "Master Electrician". My son Bobby. learned how to rewire an entire house at ten years old. Bobby always worked for a living; he would work whenever he wasn't in school with his father or Mr. Givens doing electrical work.

Bobby was always very gifted in academics; he was always able to take test and basically score higher than any of his peers. Bobby was put in a program which allowed him to graduate at 16; his grades were off the scale.

Bobby went into the Marines, as a 17 year old young man, he took the test for the military and he scored so high, the military said he should have been an officer. Upon entering the marines, Bobby went into the "Fire and Aircraft Rescue section"; he scored higher than peers on all tests after learning principles and concepts.

After returning home from Marines, all Bobby did was work. He later married his wife and they had children. He made some mistakes, but still he would work very hard to take care of his family. My son worked 6-7 days a week at a time sometimes 12-16 hours a day.

Bobby is a good man, son, husband, father, and friend to many. He is a hard working young man and is always willing to take care of his family. He has helped many, which is why people are reaching out to help him and his family even now. Please consider his children, wife and all those that he has been a blessing in our lives. I love my son and know that I could say so much about him because I am his mother. I tried to share some points that came to my mind when writing this letter on behalf of my son.

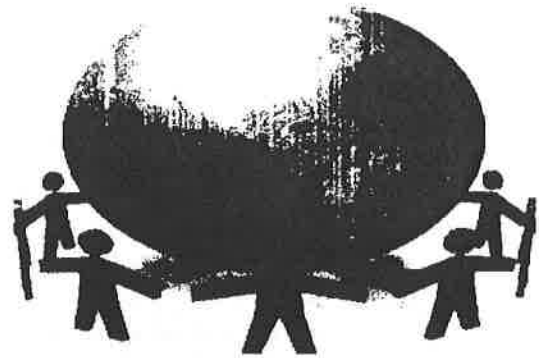
If you need any further information from me, please do not hesitate to give me a call at the above number.

Truly,

A handwritten signature in black ink, appearing to read "Rev. Dr. Mary E. Proctor". The signature is written in a cursive, flowing style.

Rev. Dr. Mary E. Proctor

Bobby's Mother



World Missions Inner-city EXTENSION Center Inc.

P.O. Box 92083

Washington, DC 20090-2083

Email: extensioncenter@gmail.com

Telephone: 202-234-0676

July 23, 2018

Judge T.S. Ellis III

Dear Honorable Judge Ellis:

This letter on behalf of Bobby Perkins Jr; who as most of his life has not been involved in the criminal justice system.

As a former Marine, and worker/volunteer with World Missions Inner-city EXTENSION Center he has given of his time, and talents working with inner-city at-risk children, youth and economically deprived families living in DC.

As chaplain of the Department of Youth Rehabilitation Services-Youth Services Center for over 32 years and President of World Missions Inner-city EXTENSION Center, Bobby has served for many years as a Mentor in our Positive Alternatives Job Readiness program which is designed to work with incarcerated youth and at-risk children in the community.

Pending outcome of his trial, we have a job awaiting for Bobby and would without reservation hire him to continue working with our Positive Alternatives Program. Also, as another example of skill that he has acquired, consist of him obtaining his GED, and him working as an electrician.

In closing, we ask for leniency in sentencing Mr. Perkins considering that he is a good father of three daughters five and under, and a good husband with other

positive attributes that exemplify his potential for being a person capable of helping people improve their quality of life.

Sincerely,

A handwritten signature in black ink, appearing to read "JoAnn Perkins", written in a cursive style.

Rev. Dr. JoAnn Perkins, Department of Youth Rehabilitation Services- Youth Services Center (YSC)/President/ CEO World Missions Inner-city EXTENSION Center Inc.

CC: C. Dean Latsios, Attorney At Law

3905 – Railroad Ave. Suite 104

Fairfax, VA 22030

Dear Your Honor,

I'm writing this letter on behalf of Bobby Perkins, Jr. I've known him his entire life. He was raised in the Church under the guidance of his father as the Pastor when he did visit him on some weekends. Bobby grew up in a single family home with his mom and sometimes had weekend visitations with his dad. While living with his mom he dealt with living under her very strict and different ways of rearing him as a child and his teen years.

I believe that his negative actions and behaviors are due to all the untreated mental and Psychological anguish he had endured throughout his childhood. Even after enduring those childhood anguishes Bobby still tried to pursue a positive life style and he was always known as a hard worker in School and

received honorable grades.

After High School, he went on to serve his Country as a dedicated United States Marine. He was a very dedicated and hard worker as a Marine. He enjoyed protecting and honoring his Country. He also has other great characteristics as being a dedicated and loving husband and father to all his kids. I feel that Bobby Perkins, Jr., has so much more positivity to offer to society once given the chance. All of his good qualities and characteristics outweigh the negative choice he presently made. Your honor, I know if given the opportunity Bobby Perkins, Jr., will prove to be an upstanding abiding citizen who would be a great asset to his community!!

Bobby Perkins, Jr., is and has always been a very educated, loving, and loyal individual who genuinely loves his family and friends. Your honor, I'm asking you for leniency on

Bobby Perkins, Jr., behalf for a second chance in life. All of his family needs him especially his young daughters.

Thanks in advance for your favorable decision.

Thank You,


Mrs. Sherry Wyatt